

REMARKS

Claims 1 to 25 are currently pending; claims 14 and 15 stand withdrawn. Claims 1 to 3, 6, 7, 9 and 16 to 18 have been rejected under 35 U.S.C. 103(a) as being unpatentable over United States Patent No. 6,115,401 (Scobey 1 et al) in view of United States Patent No. 6,590,655 (Welch et al). Claims 1 to 8 and 19 to 22 have been rejected under 35 U.S.C. 103(a) as being unpatentable over United States Patent No. 6,320,996 (Scobey 2 et al) in view of Welch et al. Claims 10 to 13 and 23 to 25 have been objected to, but would be allowed if rewritten in independent form including all the limitations of the base claim and any intervening claims.

“To establish a prima facie case of obviousness, three basic criteria must be met. First, there must be some suggestion of motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, and not based on applicant’s disclosure. In re Vaeck, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991)” [MPEP § 2142; 8th Edition, Rev. 1, Feb. 2003, Pg. 2100-124].

In accordance with the Examiner’s own submissions, “*Scobey et al ‘401 does not teach that the first lens system converts an input beam into an output beam having a substantially eccentric cross-section...*”; and “*Scobey et al ‘996 does not teach a first lens system for providing a substantially elliptical beam...*”; but “*Welch et al does teach a first lens system for providing a substantially elliptical beam*”; and “*Welch et al does teach that the first lens system converts an input beam into an output beam having a substantially eccentric cross-section...*”.

Applicant agrees to the fact that both linearly variable filters (LVF) and lens systems for producing eccentric beams do exist; however, Applicant disagrees that

the particular advantages of providing an eccentric beam to a LVF is taught or even implied by the cited references.

Contrary to the present invention, the Welsh et al reference seeks to correct electromagnetic beams, which do not have a radially uniform energy density caused by elliptical shaped spots, by inducing an initial eccentricity, whereby the output beam has more uniform radial energy density. Accordingly, Welsh et al teach the elimination of the elliptical beam for impingement with the Sample System D, not the benefits of an eccentric beam on a LVF. Accordingly, there is no motivation to combine either Scobey et al reference with the Welsh et al reference, nor is there any reasonable expectation that the combination of the two inventions would succeed.

To minimize angular broadening, a circular beam is usually made larger, i.e. collimated; however to minimize beam broadening a circular beam is made smaller, i.e. focused. The inventors of the present invention have minimized both angular broadening and beam broadening by broadening the beam in one direction, e.g. the wavelength constant axis, while narrowing the beam in the other direction, e.g. the wavelength varying direction. This feature is both novel and non-obvious.

New claims 26 and 27 have been added to ensure all aspects of the invention are protected.

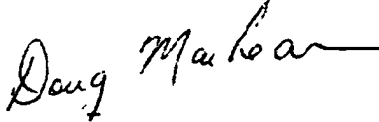
Furthermore, Applicant hereby traverses the objections by presentation of the attached Common Ownership Declaration, thereby disqualifying the Scobey 2 et al reference.

As such, it is respectfully submitted that all of the claims remaining in the application are in condition for allowance. Early and favorable consideration would be appreciated.

Should any minor informalities need to be addressed, the Examiner is encouraged to contact the undersigned attorney at the telephone number listed below.

The Commissioner is hereby authorized to charge any fees, which may be required, or credit any over-payment to Deposit Account No: 50-1465.

Respectfully,



Doug MacLean
Regn No: 48,096

Customer No: 24949

Teitelbaum & MacLean
Registered Patent Agents Limited
1187 Bank Street, Suite 201
Ottawa, Ontario
Canada
K1S 3X7

Tel: (613) 523 3784
Fax: (613) 523 6799
Email: doug.macleam@jdsu.com
Email: doug@patents.org
Website: www.patents.org

DJM/ewg